

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**K.S., by and through her parents and next friends,
T.S. and A.R.,**

Plaintiff,

vs.

Case No. 14-cv-385

**THE SANTA FE PUBLIC SCHOOLS;
VICKIE L. SEWING, in her individual capacity;
THE ESPANOLA PUBLIC SCHOOLS;
RUBY E. MONTOYA, in her individual capacity;
GARY F. GREGOR, in his individual capacity;**

Defendants.

NOTICE OF REMOVAL

Defendants Española Public Schools and Ruby E. Montoya, by and through undersigned counsel state:

1. Pursuant to 28 U.S.C. §§ 1331, 1441, 1443 and 1446, Defendants Española Public Schools, Ruby E. Montoya, herein exercise their right, with the written consent of all served Defendants, to remove this action from the First Judicial District Court, County of Santa Fe, State of New Mexico, where this case is now pending by the name and style of *K.S., by and through her parents and next friends, T.S. and A.R., v. The Santa Fe Public Schools; Vickie L. Sewing, in her individual capacity; The Espanola Public Schools; Ruby E. Montoya, in her individual capacity; Gary F. Gregor, in his individual capacity*, No. D-101-CV-2014-00491. Plaintiff's action arises, in part, out of alleged violations of Plaintiff's rights pursuant to 42 U.S.C. § 1983, 20 U.S.C. § 1681, and the Fourteenth Amendment of the United States Constitution.

2. This Court has original jurisdiction as provided in 28 U.S.C. § 1331 in that the cause arises under the Constitution and law of the United States brought pursuant to 42 U.S.C. § 1983 or other applicable federal statutes. *See e.g.*, Complaint at Count I (Plaintiff's Claims Against Defendant Gregor Under 42 U.S.C. § 1983), Count II (Plaintiff's Claim Against Defendants SFPS and EPS Under 42 U.S.C. § 1983), Count III (Plaintiff's Claims Against Defendant Sewing Under 42 U.S.C. § 1983), Count IV (Plaintiff's Claims Against Defendant Montoya Under 42 U.S.C. § 1983), and Count V (Plaintiff's Claims Against Defendant EPS Under Title IX, 20 U.S.C. §§ 1681-1688, for Sexual Abuse).

3. Further, the removing Defendants state that this Court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367, over the state law claims since said claims are so related to the federal law claims that they form part of the same case and controversy under Article III of the United States Constitution.

4. On April 1, 2014, counsel for Defendants Española Public Schools and Ruby E. Montoya accepted service of the Summons, Complaint, and Demand for Trial by Jury. *See, Exhibit A.* On April 1, 2014, counsel for Defendant Gary Gregor accepted service of the Summons, Complaint and Demand for Trial by Jury. *See, Exhibit B.* On April 2, 2014, Defendants Santa Fe Public Schools and Vickie L. Sewing were served with the Summons, Complaint and Demand for Trial by Jury. *See, Exhibit C.*

5. This Notice is filed within 30 days of service on the removing Defendant.

6. All non-removing Defendants, Santa Fe Public Schools, Vickie L. Sewing and Gary Gregor consent to the removal of this action as shown by the attached consents signed by their respective counsel. *See Exhibits D and E.*

7. Therefore, there is unanimity of all Defendants consenting to this removal.

8. This Notice of Removal is filed within thirty (30) days of the Removing Defendants acceptance of service of the Complaint. Thus, the Notice of Removal is timely under 28 U.S.C. § 1446(b).

9. Pursuant to 28 U.S.C. § 1446(d), written notice of this Notice of Removal has been given to all adverse parties and an endorsed copy is filed with the Clerk of the First Judicial District Court, County of Santa Fe, State of New Mexico.

10. Defendants also attach a copy of the www.nmcourts.gov court docket as of April 25, 2014. See, *Exhibit F*. Pursuant to D.N.M. LR-Civ.81.1(a), a certified copy of the State Court file will be filed with the Court within thirty days after filing the Notice of Removal.

11. The Complaint, Summons and Demand for Trial by jury served on the removing Defendants are attached as *Exhibit G*.

WHEREFORE, the removing Defendants respectfully request this Court to remove this action from the First Judicial District Court, County of Santa Fe, State of New Mexico to the United States District Court for the District of New Mexico.

Respectfully submitted,

WALZ AND ASSOCIATES, P.C.

/s/ Jerry A. Walz
JERRY A. WALZ, ESQ.
*Attorney for Defendants Española Public
Schools, and Ruby E. Montoya*
133 Eubank Blvd. NE
Albuquerque, NM 87123
505-275-1800
jerryawalz@walzandassociates.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing *Notice of Removal* was served to the following counsel of record via U.S. Mail and the First Judicial District Court and Honorable Sarah Singleton via email this 25th of April, 2014:

ROTHSTEIN, DONATELLI, HUGES,
DAHLSTROM, SCHOENBURG &
BIENVENU, LLP
Carolyn M. Nichols
Brendan K. Egan
500 4th St., NW, Suite 400
Albuquerque, NM 87102
(505) 243-1443

First Judicial District Court Clerk
Judge Steve Herrera Judicial Complex
sfedrequests@nmcourts.gov

Honorable Sarah Singleton
1st Judicial District Court Judge
sfeddiv2proposedtxt@nmcourts.gov

BROWN LAW FIRM
Kevin Brown, Esq.
Desiree D. Gurule, Esq.
Keya Koul, Esq.
2901 Juan Tabo Blvd. NE, Suite 208
Albuquerque, NM 87112
(505) 292-9677

NARVAEZ LAW FIRM
Henry Narvaez, Esq.
Carlos Sedillo, Esq.
601 Rio Grande Blvd NW
P.O. Box 25967
Albuquerque, NM 87125-0967
(505) 248-0500

/s/ Jerry A. Walz
JERRY A. WALZ